

**AGENDA
CITY OF FAYETTEVILLE
ZONING COMMISSION
COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
ELECTRONIC/ZOOM MEETINGS
SEPTEMBER 8, 2020 @ 6:00 P.M.**

**AGENDA
CITY OF FAYETTEVILLE
ZONING COMMISSION
COUNCIL CHAMBERS
1ST FLOOR, CITY HALL
ELECTRONIC/ZOOM MEETINGS
SEPTEMBER 8, 2020 @ 6:00 P.M.**

- I. APPROVAL OF AGENDA**
- II. INTRODUCTION OF COMMISSION MEMBERS**
- III. APPROVAL OF MINUTES FROM AUGUST 11, 2020, MEETING**
- IV. EVIDENTIARY HEARINGS**

VARIANCE(S):

A20-17F. Request a Variance to reduce the required side setback from 15-feet to 5-feet for the construction of a two-car carport/garage, located at 409 Devane Street (Tax Map # 0427-83-3502) and being the property of Jack and Daphne Mellott. (Hadley Joseph)

A20-21F. Request a Variance to exceed the maximum square footage of an accessory structure of 750 square-feet to 2,400 square-feet, located at 6884 Family Street. (Tax Map # 9497-65-7295) and being the property of Jordan & Sue Ann Jones. (Hadley Joseph)

V. PUBLIC HEARINGS

ZONING(S)/REZONING(S):

P20-24F. Initial Conditional Zoning of three properties currently zoned by Cumberland County as R-7.5 Residential District to Single-Family 10/Conditional Zoning (SF-10/CZ), located off Lindbridge Drive, (Tax Map #s 9495-33-9869, 9495-33-9659, and 9495-431863) totaling 3.56 acres ± and being the property of The Sharlene R. Williams Revocable Trust, represented by Scott Brown of 4D Site Solutions, Inc. (Jennifer Baptiste)

P20-29F. Conditional zoning of a property currently zoned as Agricultural-Residential (AR) to Single-Family 10/Conditional Zoning (SF-10/CZ), located off Dundle Road, (Tax Map # 9495-34-6633) totaling 25.20 acres ± and being the property of Cliffdale Corner, LLC, represented by Scott Brown of 4D Site Solutions, Inc. (Jennifer Baptiste)

P20-31F. Rezoning of property zoned Single-Family 10 (SF-10) to Conservation District (CD), located near the intersection of Lake Trail Drive and Lake Meadow Drive, (Tax Map #s 0405-29-5125) totaling 0.51 acres ± and being the property of Carlos Davis. (Craig Harmon)

P20-32F. Conditional zoning of a property zoned Single-Family 6 (SF-6) to Official & Institutional/Conditional Zoning (OI/CC), located at 2714 - 2726 Arlington Ave, (Tax Map #'s 0427-30-6816, 0427-30-5835, 0427-30-4864, 0427-30-3883) totaling 1.27 acres ± and being the property of N & B CO LLC., represented by George M. Rose, P.E. (Craig Harmon)

P20-33F. Rezoning of two parcels currently zoned as Single-Family 6 (SF-6) to Mixed Residential 5 (MR-5), located at the corner of Faison Avenue and David Street, (Tax Map #s 0416-69-7499 and 0416-69-6448) totaling 0.51 acres ± and being the property of Vulcan Homes, LLC, represented by Robert Doran. (Jennifer Baptiste)

VI. OTHER BUSINESS

VII. ADJOURNMENT

Please be advised that the City of Fayetteville Zoning Commission will conclude its meeting at 10:00 p.m. or after all business is completed, whichever comes first. If the Zoning Commission is in the midst of a case at 10:00 p.m., it is our intention to finish that case before adjournment. Cases yet to be heard will be continued to a date certain. Thank you for keeping your comments brief.

**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION
COUNCIL CHAMBERS
ELECTRONIC/ZOOM MEETINGS
August 11, 2020 @ 6:00 P.M.**

MEMBERS PRESENT

Kevin Hight, Chair
Bryant Edwards
Roger Shah

MEMBERS ABSENT

Dineen Morton
David Baran
Willie Dorman Jr.

STAFF PRESENT

Taurus Freeman, Planning & Zoning Division Manager
Jennifer C. Baptiste, Senior Planner
Craig Harmon, Planner II
Hadley Joseph, Planner II
David Winestead, Zoning Administrator
Lisa Harper, Assistant City Attorney
Catina Evans, Office Assistant II

The August 11, 2020, Zoning Commission Meeting was called to order by Chairman Kevin Hight at 6:20 p.m. Mr. Hight asked each member to announce themselves and state if they had any conflicts. Each member confirmed they did not have a conflict.

Mr. Hight requested a motion to amend the agenda and postpone cases P20-17F and P20-21F until September 8, 2020.

I. APPROVAL OF AGENDA

MOTION: Kevin Hight made a motion to amend the agenda and postpone cases P20-17F and P20-21F.
SECOND: Roger Shah
VOTE: Unanimous (3-0)

MOTION: Roger Shah made a motion to approve the agenda.
SECOND: Bryant Edwards
VOTE: Unanimous (3-0)

II. MINUTES FOR JULY 14, 2020, MEETING

MOTION: Roger Shah made a motion to approve the minutes from the July 14, 2020, meeting.
SECOND: Kevin Hight
VOTE: Unanimous (3-0)

III. PUBLIC HEARINGS

The Zoning Commission is charged with the review of applications for rezoning, conditional rezoning, variances, and special use permits. We review according to standards put forth in the unified development ordinance and ultimately make recommendations to the city council. The burden of demonstrating that an application complies with applicable standards is on the applicants. Our job is to listen to the testimony from both sides, be objective and fair at all times. Ultimately our goal is to preserve the character and integrity of our neighborhoods. The findings of tonight's hearings will be voted upon by this commission, and the result and

recommendations passed on to the city council. The extent of which any person feels aggrieved or hurt by our recommendation, they have the right to appeal to the city council, within 10 days of the recommendation. With respect to your presentation each side has a total of 15 minutes to present their case either for or against the applicant's request. However, this rule does not apply to Special Use Permits.

Mr. Hight opened the public hearing for case P20-26F.

P20-26F. Jennifer Baptiste presented a request for a special use permit (SUP) to construct four townhomes in a Single-Family Residential 6 (SF-6) zone, located at 600 & 602 Roxie Avenue. Ms. Baptiste stated that the two parcels of land are zoned Single-Family 6 (SF-6). The parcels were rezoned by the City Council in May of 2019 while the surrounding area remained Single-Family 10. According to the Land Use Map, the area should be developed as Medium-Density Residential which is defined as an area with primarily single-family houses with small lots and some duplexes and townhomes interspersed. The property was rezoned by the City Council on May 28, 2019, for the purpose of developing town homes. Each town home will be developed on an individual lot with open space and common area taking up the remainder of the lot. To the north, south, east and west are single-family homes. According to the site plans, there will be four town homes on the lot with open space, a common area and parking in the front of the lot.

Staff recommended approval of the request for the SUP based on the following:

- The proposed SUP implements the policies adopted in the Unified Development Ordinance;
- The construction of the townhomes are allowed in the Single-Family Residential 6 (SF-6) district and will not detract from the overall area;
- The proposed SUP ensures that new development is compatible with the Future Land Use Plan; and
- There are no other factors which will substantially affect the public health, safety, morals, or general welfare.

Mr. Hight inquired if the lots will be separate. Ms. Baptiste explained that based on the site the town homes will be plotted as individual lots surrounded by a common area lot. Mr. Hight asked if there were any questions for the staff. Since there were no questions for the staff, Mr. Hight opened up the floor for speakers.

Speakers in favor:

Scott Brown, PE, 4D Site Solutions, Inc., 409 Chicago Drive, Suite 112, Fayetteville, NC 28306

Mr. Hight asked Mr. Brown about the actual structures as far as the rooms and size. Mr. Hight asked if there were any further questions and there were none.

Mr. Hight asked for a motion on P20-26F.

MOTION: Roger Shah made a motion to approve the request for the special use permit for case P20-26F.

SECOND: Bryant Edwards

VOTE: Unanimous (3-0)

Mr. Hight opened up the hearing for case P20-28F.

P20-28F. Craig Harmon presented a request to for a special use permit for a property zoned Community Commercial (CC), located at 4800 & 4802 Murchison Road. The lot was previously a consignment and thrift

store, but the applicants want to use the existing facilities for an auto wrecker service. The area is zoned heavy commercial area with Heavy Industrial behind it. Based on the Future Land Use Plan, this area is designated as part of an economic center area. The property is currently vacant. The applicant is not looking to make any significant changes to the site and will use all of the existing facilities.

Staff recommends approval of the map amendment to CC based on the following:

- This proposed SUP implements the policies adopted in the Unified Development Ordinance;
- The development of this use is allowed in the Community Commercial district and will not detract from the overall area;
- The proposed SUP ensures that new development is compatible with the current zoning, UDO, and overall growth pattern of the area;
- The utilization of an existing previously developed site; and
- There are no other factors which will substantially affect the public health, safety, morals, or general welfare.

Mr. Hight asked if there were any questions for Mr. Harmon. Mr. Edwards inquired if the applicants would store cars on the lot. Mr. Harmon stated that they would store cars there for no more than 90 days. Mr. Harmon said that if the applicant were to store cars beyond this time they would be considered a salvage business.

Speakers in favor:

Henry Tyson, Tyson Commercial Real Estate, 109 Hay Street, Suite 201 Fayetteville, NC 28301

Mr. Tyson stated that the special use permit was required because the lot was within 200 feet of a residential area. Mr. Tyson stated that he would take questions from the staff, but there were no questions for Mr. Tyson. Mr. Hight closed the public hearing and asked for a motion.

MOTION: Bryant Edwards made a motion to approve the SUP for P20-28F.

SECOND: Robert Shah

VOTE: Unanimous (3-0)

Mr. Hight opened the hearing for case P20-25F.

P20-25F. Craig Harmon presented a request to rezone property located on Cliffdale Road from Single-Family Residential 6 (SF-6) and Neighborhood Commercial (NC) to Mixed Residential 5 (MR-5). The area is located near the intersection of Cliffdale Road and Braybrooke Place. It is mixed residential area that would allow for multi-family development. The applicant wants to change both properties to the MR-5 zoning. Under the Land Use Plan, mixed residential zoning is located on Cliffdale Road.

Staff recommend approval of the rezoning of the property to MR-5 based on the following:

- This proposed zoning map amendment implements the policies adopted in the Unified Development Ordinance and 2040 Future Land Use Plan and Map. This district type is intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of this Ordinance. and;

- The uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified due to the existing zoning, uses surrounding this property and the recommendations of the 2040 Future Land Use Plan; and
- There are no other factors which will substantially affect the public health, safety, morals, or general welfare.

Mr. Harmon asked if there were any questions and there were none. Mr. Hight opened the floor to speakers.

Speakers in favor:

Joe Riddle, K&JS Properties, LLC and TPGM Properties, LLC, 4200 Morganton Road, Suite 150 Fayetteville, NC 28314

Mr. Riddle stated that his family owned the parcels of the land for over 20 years. When his family bought them the parcels were zoned multi-family, but when the Unified Development Ordinance standards came into effect it changed the zoning of the area.

Mr. Hight asked if there were any questions for Mr. Riddle, and there were no questions for the speaker.

Ms. Graham stated that her concern is the storm water runoff and flooding in the developed area. Mr. Harmon stated that her issues would be addressed with the Technical Review Committee, and the City of Fayetteville could work with DOT to address her traffic concerns.

Mr. Hight asked if there were any further questions for Ms. Graham. Since there were no further questions, Mr. Hight closed the public hearing and requested a motion.

MOTION: Roger Shah made a motion to approve the rezoning request to MR-5 for the lot at the intersection of Cliffdale Road and Braybrooke Place.

SECOND: Bryant Edwards

VOTE: Unanimous (3-0)

Mr. Hight opened the hearing for case P20-27F.

P20-27F. Ms. Jennifer Baptiste presented a request to rezone property located off McArthur Road from Single-Family 10 (SF-10) to Mixed Residential 5 (MR-5). The lot contains an existing apartment complex, and the applicant wants to rezone the property in order to bring the site into full conformity with the current Unified Development Ordinance (UDO).

The planning staff recommends approval of the rezoning of this land based on the following:

- This proposed zoning map amendment implements the policies adopted in the Unified Development Ordinance. This district type is intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four- family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development;
- The 2040 Future Land Use Plan supports high density residential development at this site;

- The uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors which will substantially affect the public health, safety, morals, or general welfare.

Mr. Hight inquired if there were any questions for the staff. Mr. Edwards had a question regarding the issue that led to the rezoning. Ms. Baptiste stated that the applicants wanted to change the zoning in case they needed to fix the property or make any future changes to the lot.

Speakers in favor:

Lori Epler, Larry King & Assoc., 1333 Morganton Road, Fayetteville, NC 28305

Ms. Epler stated that the buyers understood that the lot was nonconforming, but they purchased it and now they want to be able to rebuild on the lot if necessary by making the lot conform to the current UDO standards.

Roger Shah inquired if the property currently has apartments on it, and Ms. Epler stated that there were apartments on the lot.

Mr. Hight closed the hearing for P20-27F and requested a motion from the Commission.

MOTION: Bryant Edwards made a motion to approve the rezoning of the lot for case P20-27F.

SECOND: Kevin Hight

VOTE: Unanimous (3-0)

IV. OTHER BUSINESS

V. ADJOURNMENT

MOTION: Roger Shah made a motion to adjourn the meeting.

SECOND: Kevin Hight

VOTE: Unanimously (3-0)

The August 11, 2020, meeting adjourned at 7:09 p.m.

Respectfully submitted by Catina Evans

A20-17F. Request a Variance to reduce the required side setback from 15-feet to 5-feet for the construction of a two-car carport/garage, located at 409 Devane Street (Tax Map # 0427-83-3502) and being the property of Jack and Daphne Mellott. (Hadley Joseph)

ZONING COMMISSION STAFF REPORT

TO: Zoning Commission Members
THRU: Taurus Freeman – Planning & Zoning Divisional Manager
FROM: Hadley K. Joseph, MLA – Planner II
DATE: September 08, 2020

RE:

A20-17F. Request a Variance to reduce the required side setback from 15-feet to 5-feet for the construction of a two-car carport/garage, located at 409 Devane Street (Tax Map # 0427-83-3502) and being the property of Jack and Daphne Mellott.

Council District:

5 – Johnny Dawkins

30.2. C.14 Variance:

The purpose of a Variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by Variance.

Background:

Owner: Jack and Daphne Mellott

Applicant: Dee Sellers

Requested Action: Request a Variance to reduce the required side setback from 15-feet to 5-feet for the construction of a two-car carport/garage.

Zoning District: Single-Family Residential 15 (SF-15)

Property Addresses: 409 Devane Street

Size: 0.36 acres ±

Existing Land Use: Low-Density Residential

Surrounding Land Uses and Zoning

- North: SF-15: Single Family Residential
- South: SF-15: Single Family Residential

- East: SF-10: Single Family Residential
- West: SF-15: Single Family Residential

Letters Mailed: 29

The City's UDO Section 30-3.D.2. Single-Family Residential 15 (SF-15) District

Article 30-3: Zoning Districts

30-3.D. Residential Base Zoning Districts

30-3.D.2. Single-Family Residential 15 (SF-15) District

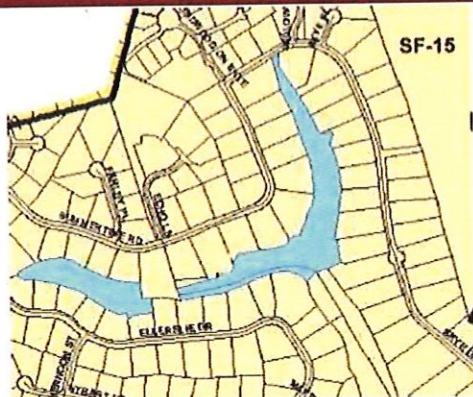
SF-15 SINGLE-FAMILY RESIDENTIAL 15 DISTRICT	PURPOSE			
	The Single-Family Residential 15 (SF-15) District is established to accommodate principally single-family detached residential development at low densities subject to the design standards in Article 30-5: Development Standards. It also accommodates two- to four-family dwellings designed to appear as single-family detached homes, and zero lot line development subject to the requirements of this Ordinance. District regulations are intended to discourage any use that substantially interferes with the development of single-family detached dwellings and that is detrimental to the quiet residential nature of the district. Also allowed are complementary uses usually found in residential zoning districts such as parks, open space, schools, and places of worship.			
DIMENSIONAL STANDARDS				
DIMENSIONAL STANDARD	SINGLE-FAMILY DETACHED DWELLINGS	TWO- TO FOUR- FAMILY DWELLINGS	ALL OTHER PRINCIPAL USES	ACCESSORY STRUCTURES
Lot area per unit, min. (sq. ft.)	15,000			n/a
Lot width, min. (ft.)	100			n/a
Lot coverage, max. (% of lot area)	25			[2]
Height, max. (ft.)	35			25; 15 where abutting a SF district or use and setback is less than 10'
Front and corner side setback, min. (ft.) [3]	30 feet or 55 feet from centerline of private streets			Not allowed in front, side, or corner side setbacks
Side setback, min. (ft.) [3]	15			
Rear setback, min. (ft.) [3]	35; 20' when corner side setback is 30' or more			5
Spacing, between buildings, min. (ft.)	n/a	20		5
Zero lot line development standards	Zero lot line shall comply with the maximum gross residential density standards. Setbacks and lot area for lots abutting the perimeter of the development shall meet the district minimums; otherwise no setbacks, lot area, lot coverage, or building spacing requirements shall apply [4]			
NOTES: [1] [Reserved.]				

[2] Accessory structures/use areas shall not exceed 25 percent of the allowable lot coverage. However, with the exception noted in this footnote, accessory structures shall not exceed the lesser of 1500 square feet in size or the size of the principal structure, and any accessory structure with a footprint over 700 square feet must be set back an additional 5 feet from any lot line. When the accessory structure is adjacent to a business zoning district the additional setback requirement shall not apply and the only size limitation is the 25 percent of the allowed building coverage.

[3] Minimum setbacks for all principal uses shall be increased by five feet for all building walls 25 feet or more above grade.

[4] Zero lot line development is subject to standards in Section 30-3.B.2 and, on a tract or site of three acres in area or less may require approval of a Neighborhood Compatibility Permit (see Section 30-2.C.21 Neighborhood Compatibility Permit).

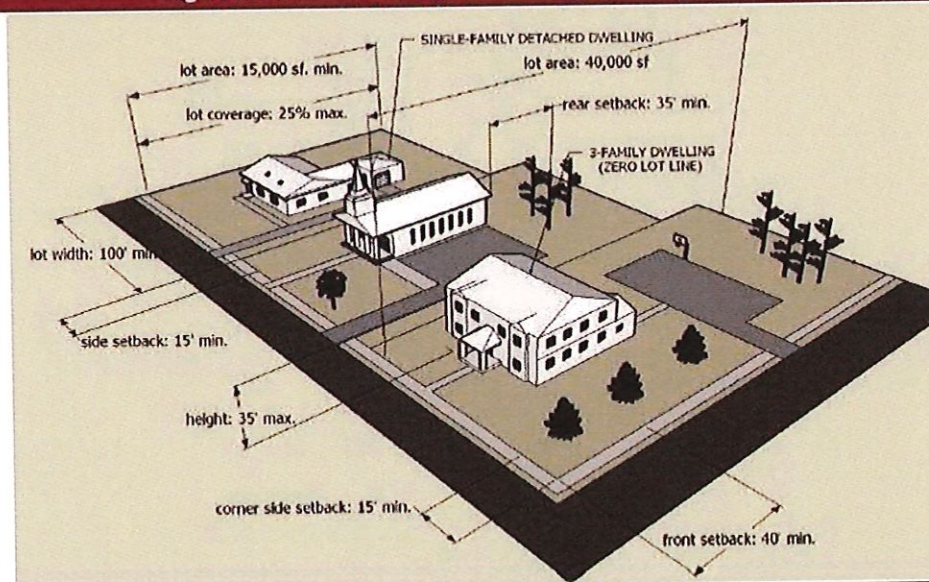
**Figure 30-3.D.2.a:
SF-15 Typical Lot Pattern**



**Figure 30-3.D.2.b:
SF-15 Typical Building Form**



Figure 30-3.D.2.c: SF-15 Typical Building/Lot Configuration



Issues:

The property is 0.36 acres \pm in size. It is located at the intersection of Twin Oak Drive and Devane Street. The development standards for the Single-Family Residential 15 (SF-15) district require homes to have a 15-foot side setback from the side property line.

The house sits nearly centered on the lot, with about 30-feet from the southern side of the property line. The lot slopes from the front property line to the rear property line. The site drops approximately 17-feet over a 152-foot distance with a slope of more than ten-percent. The existing two-car parking pad located to the rear of the house is failing, hence the need for a new parking garage, according to the applicant.

To conform to the current Unified Development Ordinance (UDO), the placement of the garage would require a foundation with a retaining wall rising approximately seven-feet above grade, as well as filling and compaction to raise the slab and driveway to useable height. Approval of a variance will allow the proposed garage to align with the existing driveway on the property.

This hardship was not self-created by the property owner. The applicant is requesting that the current UDO standard setting the side setback at 15-feet from a property line be reduced to five-feet, to allow the construction of a two-car carport/garage in the rear of the home.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district; or
3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

Subsequent Development

The minimum lot size for the SF-15 zoning district is 15,000 square feet. This lot as subdivided is 0.36 acres \pm or 15,682 square feet \pm . Thus, the lot exceeds the minimum required square footage for the zoning district and is a legal conforming lot. The Mellott's purchased the property in September 2017. This site was developed before the current UDO; therefore, it adheres to a previous ordinance.

The applicant intends to build a single-story two-car garage. The approximate square footage of the structure will be 576 square feet (24'x32').

Planning Staff recommends APPROVAL of the variance to allow a reduction of the side setback from 15-feet to five-feet.

The following findings by the Planning Staff are based on the initial review, analysis, and best available information of the proposal without the benefit of testimony provided at the public hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

1. **There is sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:**

This property is subject to 15-foot side setbacks. The property slopes to the rear, requiring the owner to construct a retaining wall. The applicant is requesting to construct 25-feet closer to the house. The slope is more pronounced along the side and rear of the house, terminating in a stream that supports stormwater run-off.

2. **There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:**

The property owner did not subdivide the property but purchased the property as platted by the original developer of the subdivision.

3. **There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:**

A Variance is requested by the landowner, to reduce the side setback to allow the construction of a carport/garage due to the slope of the property. The alternative would require a foundation with a retaining wall rising approximately seven-feet above grade, as well as filling and compaction to raise slab and driveway to useable height.

4. **There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:**

The development is consistent with the area and is in harmony with the general purpose and intent of this Ordinance.

5. **There is sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:**

There is no evidence that the granting of this variance would harm public safety, welfare, and substantial justice would be insured.

Options:

The Board's Authority: The board has the authority to approve or deny the request and must base its decision on the answers to the following five required findings of fact:

If a member believes that the evidence presented is substantial, competent, and sufficient to meet the required findings of fact then the member may make a motion to approve the variance and the members must state all of the following five findings of fact along with the evidence that was presented to satisfy each finding.

If the members cannot find specific supporting facts under all five findings of fact, the members must consider a motion of denial. A motion of denial should indicate which of the five (5) of the findings of fact cannot be met.

The board can also place reasonable conditions on any variance approval.

If a member wishes to make a motion to approve the variance they should make a brief statement that recaps the evidence showing each of the five findings of fact. Any discussion by the Board following a motion may include a recap of the evidence supporting each of the five (5) factual findings.

Possible Motions and Factual Findings:

Motion to approve the variance(s) as requested reducing the side setback from 15-feet to five-feet to allow the construction of a garage/carport in the side setback in a Single Family Residential zoning district.

Findings of Fact Required to Approve this Request:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to approve the variance(s) but with added conditions reducing the side setback from 15-feet to five feet to allow the construction of a garage/carport in the side setback in a Single Family Residential zoning district.

Findings of Fact Required to Approve this Request:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to deny the variance(s) thus requiring the garage to comply with the setback set by the ordinance.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

-
2. There is not sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

 3. There is not sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

 4. There is not sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

 5. There is not sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:

Recommended Action:

The Planning staff recommends that the Zoning Commission move to APPROVE the Variance request as described above located in the Single-Family Residential 15 (SF-15) Zoning District and because finding(s) 1-5 appear to have been met with the evidence currently submitted.

Attachments:

1. Application
2. Aerial Map
3. Zoning Map
4. Land Use Map
5. Site Plan
6. Subject Property Photos
7. Surrounding Property Photos

Project Overview

#414972

Project Title: Arran Lakes West
Application Type: 5.1) Rezoning (Map Amendment)
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN:

- PIN: 0405-29-5125 (Unverified)
- 0 LAKE TRAIL DR. (Unverified)

GIS Verified Data

Property Owner:
Zoning District:
Fire District:
Hospital Overlay District:
Cape Fear District:
Haymount Historic District:
100 Year Flood:
Watershed:

Acreage:
Subdivision Name:
Airport Overlay District:
Coliseum Tourism District:
Downtown Historic District:
Floodway:
500 Year Flood:

General Project Information

Has the land been the subject of a map amendment application in the last five years?: No

Previous Amendment Case #:

Acreage to be Rezoned: 1.265

Water Service: Public

A) Please describe all existing uses of the land and existing structures on the site, if any: The land is used for stormwater runoff with thick vegetation, trees, and wildlife. There is a metal shed on just on the other side of my property line and my next door neighbor built a fence about 50 feet into the lot.

Previous Amendment Approval Date:

Proposed Zoning District: Conservation Division (CD)

Is this application related to an annexation?: Yes

Sewer Service: Public

B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.: Part of the land is zoned Conservation division and the other is zoned Residential, due to the access of Lake Trail Dr. The surrounding the lot are residential homes. A colvert runs under Lake Trail Dr. at the access point and on the other side the stormwater empties into Arran Lake. Along the side of the stream I the sewer line connecting to the main sewer pipe.

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).

- A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.:** See my statement on the cover sheet packet sent with this a application.
- B) Are there changed conditions that require an amendment? :** The sewer assessment fee levied on the property that would not have the need for sewer service.
- C) State the extent to which the proposed amendment addresses a demonstrated community need.:** Citywide watershed master plan and wildlife refuse.
- D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.:** The stormwater runoff stream was designed into the Arran Lakes subdivision. The land was kept as is.
- E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:** See question D.
- F) State the extent to which the proposed amendment might encourage premature development.:** No development.
- G) State the extent to which the proposed amendment results in strip-style commercial development.:** Not applicable
- H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:** The lot is already zoned as CD. My neighbor with the lot behind mine had land similar to mine but is not required to pay the sewer assessment fee because he has no road access.
- I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:** No impact. The lot as of 2019 tax year was valued at \$1401.00.
- J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:** No impact.

Primary Contact Information

Project Contact - Agent/Representative

Carlos A, Davis

2039 Birchcreeft Dr.
Fayetteville, NC 28304
P:910-339-1571
cdavis9469@aol.com

Indicate which of the following project contacts should be included on this project:

Project Owner

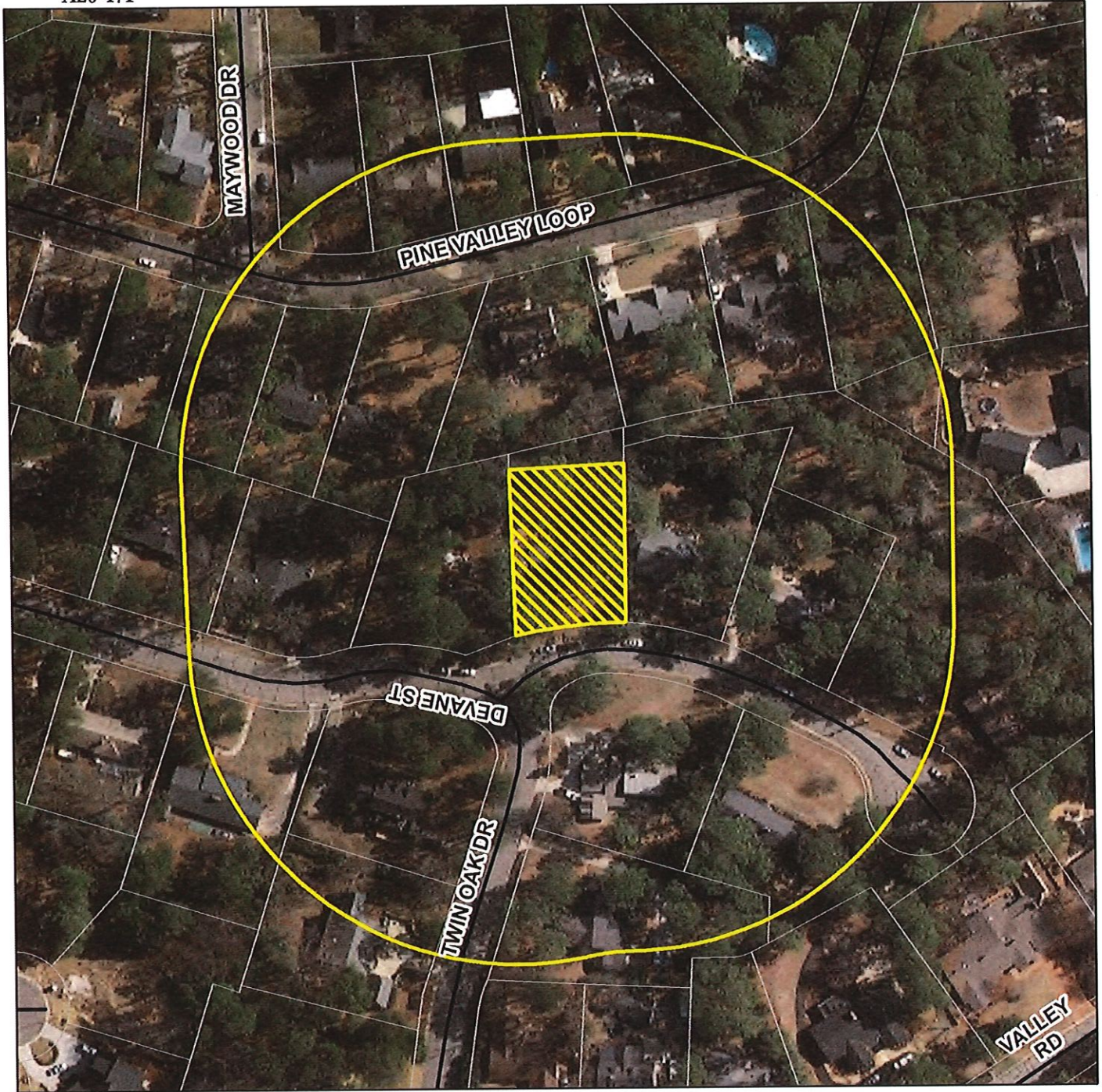
Carlos A, Davis

2039 Birchcreeft Dr.
Fayetteville, NC 28304
P:910-339-1571
cdavis9469@aol.com

NC State License Number:

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

A20-17F



Aerial Notification Map

Zoning Commission
09/08/2020

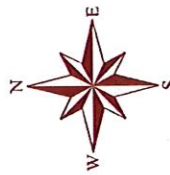
Case #: A20-17F

Request:
Variance
Setback Reduction




Location:
409 Devane St

Pin:
0427-83-3502

Acreage:
0.36 acres



Legend

-  A20-17F
-  Buffer
-  Parcels

City of
Fayetteville
North Carolina
PLANNING

Zoning Map

Zoning Commission
09/08/2020

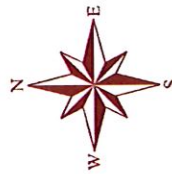
Case #: A20-17F

Request:
Variance
Setback Reduction

Location:
409 Devane St

Pin:
0427-83-3502

Acreage:
0.36 acres



Legend



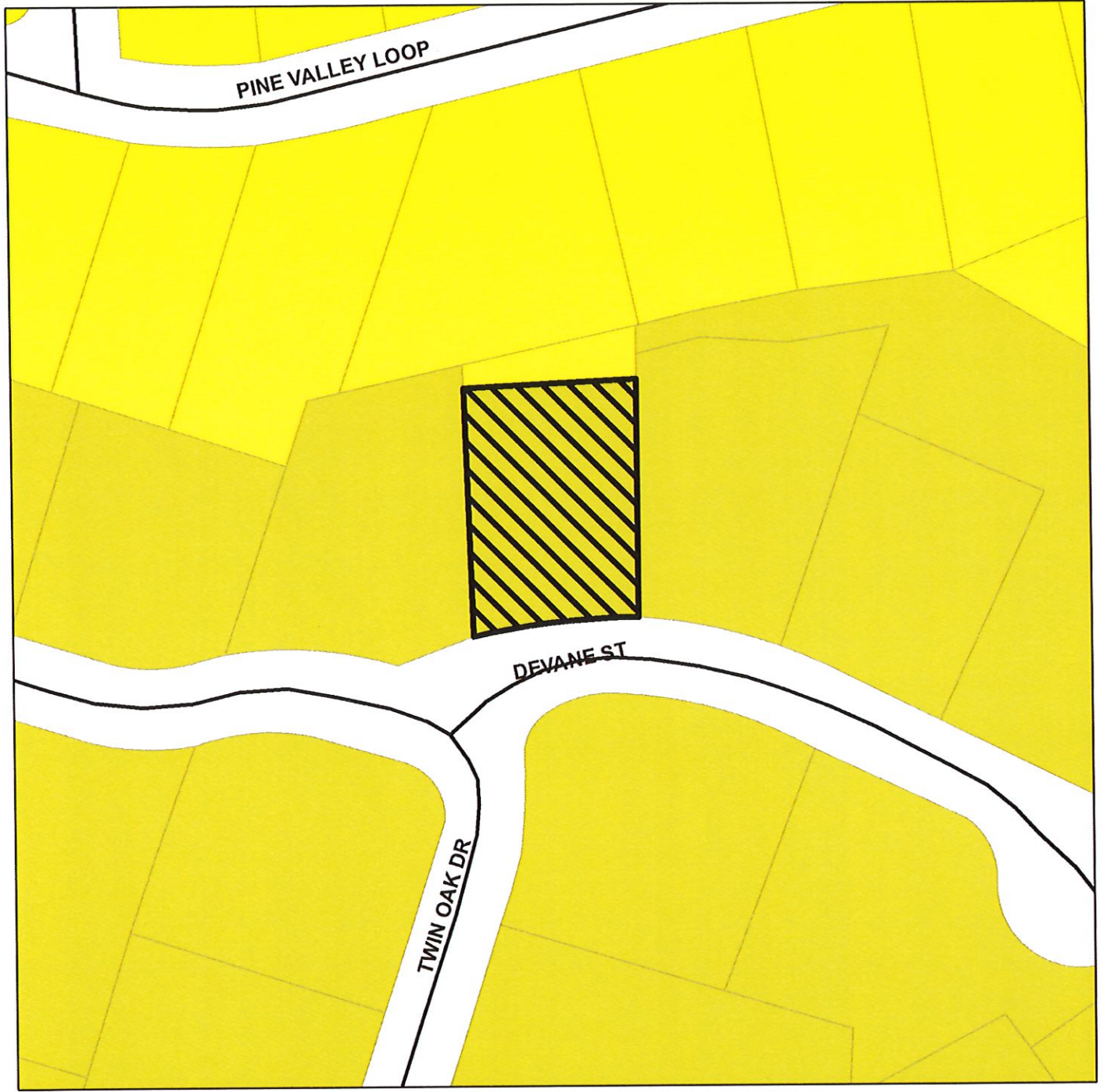
A20-17F

Zoning Map

SF-10 - Single-Family Residential 10

SF-15 - Single-Family Residential 15

Parcels



City of
Fayetteville
North Carolina
PLANNING

Land Use Map

Zoning Commission
09/08/2020

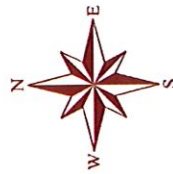
Case #: A20-17F

Request:
Variance
Setback Reduction

Location:
409 Devane St

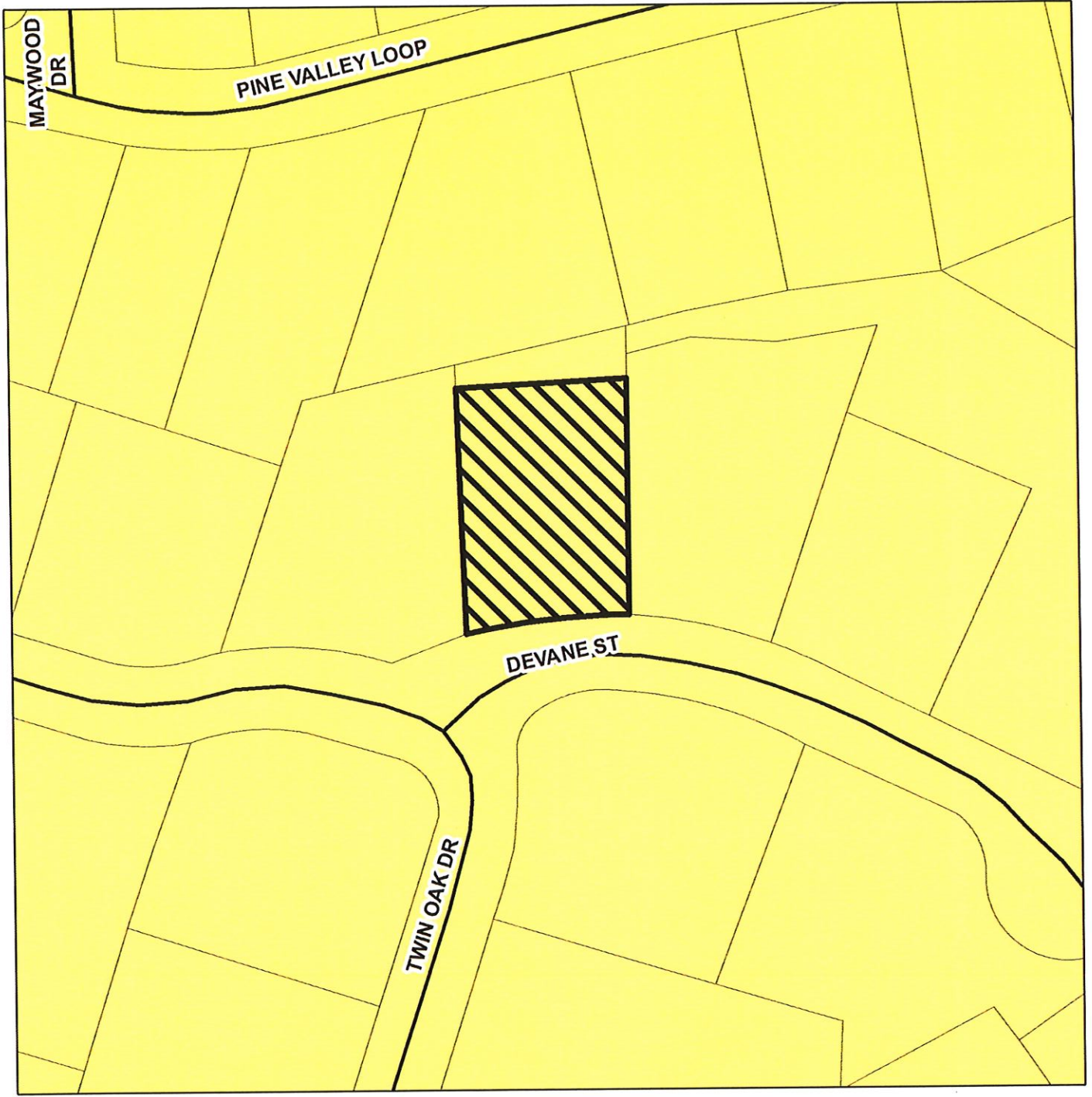
Pin:
0427-83-3502

Acreage:
0.36 acres



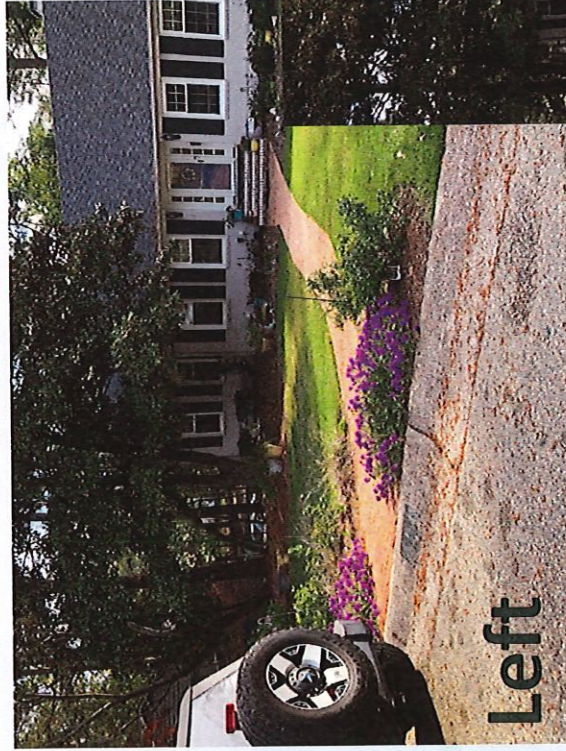
Legend

-  A20-17F
- Future Land Use 2040
- Character Areas
-  LDR - LOW DENSITY
-  Parcels

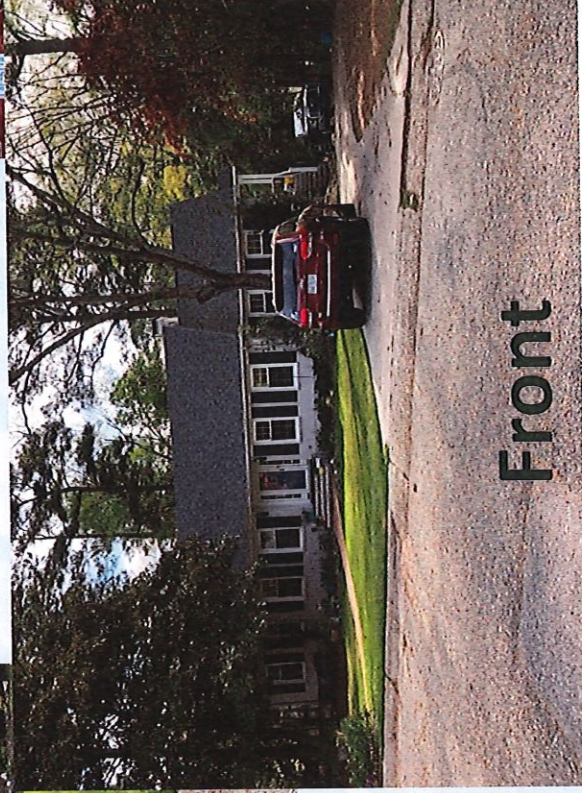




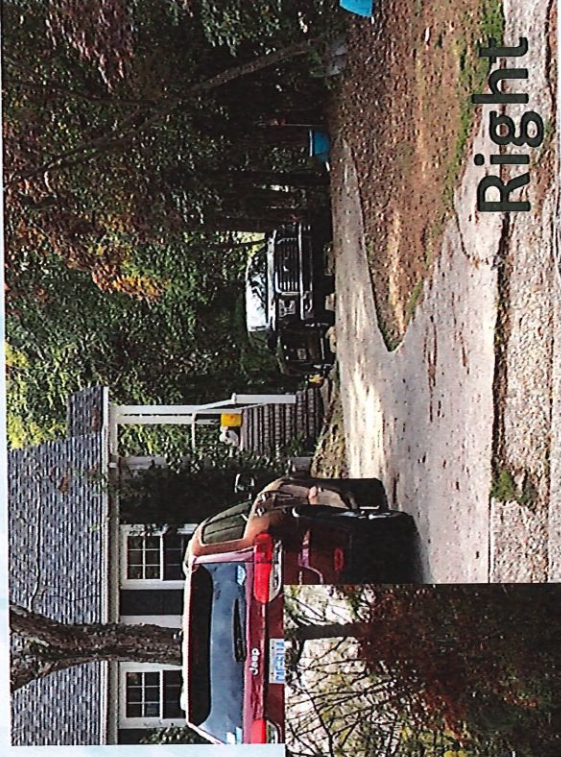
Subject Property



Left



Front



Right

Adjacent Properties



North



South

A20-21F. Request a Variance to exceed the maximum square footage of an accessory structure of 750 square-feet to 2,400 square-feet, located at 6884 Family Street. (Tax Map # 9497-65-7295) and being the property of Jordan & Sue Ann Jones. (Hadley Joseph)

ZONING COMMISSION STAFF REPORT

TO: Zoning Commission Members
THRU: Taurus Freeman – Planning & Zoning Divisional Manager
FROM: Hadley K. Joseph, MLA – Planner II
DATE: September 08, 2020

RE:

A20-21F: Request a Variance to exceed the maximum square footage of an accessory structure of 750 square-feet to 2,400 square-feet, located at 6884 Family Street. (Tax Map # 9497-65-7295) and being the property of Jordan & Sue Ann Jones.

Council District:
7 – Larry Wright

30.2. C.14 Variance:

The purpose of a Variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by Variance.

Background:

Owner: Jordan & Sue Anna Jones

Applicant: Wyman Nichols

Requested Action: Request a Variance to exceed the maximum square footage of an accessory structure of 750 square-feet to 2,400 square feet.

Zoning District: Single-Family Residential 10 (SF-10)

Property Addresses: 6884 Family Street

Size: 2.96 acres ±

Existing Land Use: Single Family Residential

Surrounding Land Uses and Zoning

- North – SF-10: Single Family Residential
- East – SF-10 & MR-5: Single Family Residential & Vacant

- South – SF-6 & SF-10: Single Family Residential
- West – SF-10: Single Family Residential

Letters Mailed: 36

The City's UDO Section 30-3.D.3. Single-Family Residential 10 (SF-10) District

Article 30-3: Zoning Districts

30-3.D. Residential Base Zoning Districts

30-3.D.3. Single-Family Residential 10 (SF-10) District

SF-10 SINGLE-FAMILY RESIDENTIAL 10 DISTRICT	PURPOSE				
	The Single-Family Residential 10 (SF-10) District is established to accommodate principally single-family detached residential development at low densities, and to accommodate flexibly-designed residential development that provides variable housing types and arrangements that respond to environmental and site conditions. Uses within the district are subject to the design standards in Article 30-5: Development Standards. The district accommodates two- to four-family dwellings designed to appear as single-family detached homes and zero lot line development subject to the requirements of this Ordinance. District regulations discourage any use that substantially interferes with the development of single-family dwellings and that is detrimental to the quiet residential nature of the district. Also allowed are complementary uses usually found in residential zoning districts, such as parks, open space, minor utilities, accessory dwellings of up to 800 square feet in size, schools, and places of worship.				
DIMENSIONAL STANDARDS					
DIMENSIONAL STANDARD	SINGLE- FAMILY DETACHED DWELLINGS	SINGLE- FAMILY ATTACHED DWELLINGS	TWO- TO FOUR- FAMILY DWELLINGS	ALL OTHER PRINCIPAL USES	ACCESSORY STRUCTURES
Lot area per unit, min. (sq. ft.)	10,000	9,000	7,500	10,000	n/a
Lot width, min. (ft.)	75				n/a
Lot coverage, max. (% of lot area)	30				{2}
Height, max. (ft.)	35				25; 15 where abutting a single- family district or use and the setback is less than 10'
Front and corner side setback, min. (ft.) [3]	30 feet or 55 feet from centerline of private streets				Not allowed in front, side, or corner side setbacks
Side setback, min. (ft.) [3]	10				
Rear setback, min. (ft.) [3]	35; 20' when corner side setback is 30' or more				5
Spacing between buildings, min. (ft.)	n/a	20			5
Zero lot line development standards	Zero lot line development shall comply with the maximum gross residential density standards. Setbacks and lot area for lots abutting the perimeter of the development shall meet the district minimums; otherwise no setbacks, lot area, lot coverage, or building spacing requirements shall apply. [4]				

Issues:

The applicant is seeking a variance to construct a 60'x40' (2400 sq.ft.) accessory building, in the SF-10 zoning district. The structure would be larger than what is allowed by the UDO. According to the applicant, the structure will be used to store and maintain antique automobiles owned by the property owner. In the SF-10 zoning district, accessory buildings are allowed to be a total of 1,500 sq.ft. This maximum size is not a per building standard, but the total allowed on any one property.

The subject property is 2.96 acres \pm in size. The property is located at the intersection of 71st School Road and Family Street, which is subject to a 30% maximum lot coverage for principal structures. There are two single-family structures on the site. One house is located in the western corner of the property. The other is located near the center of the lot. The lot already has four accessory buildings.

The property is flat with very little change in topography, as are all the other surrounding properties. The property was developed in 1978, which was before the adoption of the Unified Development Ordinance (UDO) in 2011. The site is a legal, non-conforming lot because it contains two primary structures on the property.

The development standards for the Single-Family Residential 10 (SF-10) District, requires that accessory structures shall not exceed 1,500 square feet, or be greater than the size of a principal structure. In cases where an accessory structure is greater than 700 square feet, said structure must be set back an additional five feet from any lot line. The property was last purchased by its current owners in 1987. The now 2.96-acre \pm property however was created by combining seven smaller parcels.

There is no hardship in this case caused by the current UDO.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district; or
3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

Subsequent Development

The minimum lot size for the SF-10 zoning district is 10,000 square feet. This lot was previously seven smaller properties and subsequently combined by its current owners. This combination created a 2.96-acre \pm . The lot exceeds the minimum required square footage for the zoning district. The applicant intends to build an accessory building. The approximate square footage of the structure will be 2,400 square feet (40'x60').

Planning Staff recommends DENIAL of the variance to allow the construction of an accessory building larger than permitted by the UDO.

The following findings by the Planning Staff are based on the initial review, analysis, and best available information of the proposal without the benefit of testimony provided at the public hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

1. **There is sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:**

There is no evidence that the strict application of the ordinance requirements results in practical difficulties and unnecessary hardships.

2. **There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:**

There is no evidence of any practical difficulties or unnecessary hardships resulting from unique circumstances related to the land. The property is flat with very little changes in topography.

3. **There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:**

A Variance is requested by the landowner to allow the construction of an accessory structure to store and maintain antique cars on the property.

4. **There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:**

The development is **NOT** consistent with the area and is **NOT** in harmony with the general purpose and intent of this Ordinance.

5. **There is sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:**

There is evidence that the granting of this variance would harm public safety & welfare, as based on the original subdivision plat of the property, there are utility easements in the exact location where the proposed construction would take place.

Options:

The Board's Authority: The board has the authority to approve or deny the request and must base its decision on the answers to the following five required findings of fact:

If a member believes that the evidence presented is substantial, competent, and sufficient to meet the required findings of fact then the member may make a motion to approve the variance and the members must state all of the following

five findings of fact along with the evidence that was presented to satisfy each finding.

If the members cannot find specific supporting facts under all five findings of fact, the members must consider a motion of denial. A motion of denial should indicate which of the five (5) of the findings of fact cannot be met.

The board can also place reasonable conditions on any variance approval.

If a member wishes to make a motion to approve the variance they should make a brief statement that recaps the evidence showing each of the five findings of fact. Any discussion by the Board following a motion may include a recap of the evidence supporting each of the five (5) factual findings.

Possible Motions and Factual Findings:

Motion to approve the variance(s) as requested for the construction of an accessory building that will be greater than permitted by the UDO, in a Single Family Residential zoning district.

Findings of Fact Required to Approve this Request:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to approve the variance(s) but with added conditions for the construction of an accessory building that will be greater than permitted by the UDO, in a Single Family Residential zoning district.

Findings of Fact Required to Approve this Request:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to deny the variance(s), thus requiring the construction of the accessory building to comply with the setback set by the ordinance.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. There is not sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. There is not sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. There is not sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. There is not sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:

Recommended Action:

The Planning staff recommends that the Zoning Commission move to DENY the Variance request as described above located in the Single-Family Residential 10 (SF-10) Zoning District and because finding(s) 1-5 appear to have not been met with the evidence currently submitted.

Should the Zoning Commission vote to approve this request, Planning Staff will recommend a text amendment for lots greater than one acre within this zoning district.

Attachments:

1. Application
2. Aerial Map
3. Zoning Map
4. Land Use Map
5. Site Plan
6. Subject Property Photos
7. Surrounding Property Photos

Project Overview

#369697

Project Title: 409 Devane Street
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN:

- 409 DEVANE ST (0427-83-3502-)
- 405 DEVANE ST (0427-83-2683-)

GIS Verified Data

Property Owner: Parcel

- 409 DEVANE ST: MELLOTT, JACK C & WIFE DAPHNE
- 405 DEVANE ST: LOGUE, STEPHEN STUART & WIFE MARSHALL MILLER

Acreage: Parcel

- 409 DEVANE ST: 0.36
- 405 DEVANE ST: 0.47

Zoning District:

Subdivision Name: Parcel

- 409 DEVANE ST: K SLOAN PROP
- 405 DEVANE ST: K SLOAN PROP

Variance Request Information

Requested Variances: Minimum yard/setback

Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.: Undue hardship because of excess cost

Section of the City Code from which the variance is being requested.: ??

Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.: single family housing

Justification for Variance Request - Use this and the following pages to answer the questions (upload additional sheets if necessary).

The Variance Standards states: A variance application shall be approved only upon a finding that all of the following standards are met.

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result from conditions that are common to the neighborhood or the general public be the basis from granting a variance;
3. The Variance is the minimum action that will make possible a reasonable use of land or structures;
4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
5. In the granting of this Variance, the public safety and welfare have been assured and substantial justice has been done.

Please complete the following five (5) questions to verify the evidence that all the required standards are applicable to your property and/or situation.

Provide a written description of any hardship(s) and how such hardship(s) is not self-imposed.:

Jack Mellott
409 Devane Street
Fayetteville, NC. 28301

February 12, 2020

City of Fayetteville Zoning Commission
433 Hay Street
Fayetteville, NC. 28301

Dear members of the zoning Commission:

I am requesting a variance to the Unified Development Ordinance (UDO) to reduce the setback for one side of my property at 409 Devane Street, Fayetteville, NC. I am requesting this variance due to practical difficulties and undue hardship due to the topography of the land.

My house sits nearly centered on the lot, with approximately 25 feet from the back corner of the house to the southern (side) property line. My lot slopes from the street (front property line) to the rear property line. The change in elevation is approximately 17 feet over the 152 foot depth of the lot (plus the street right-of-way). The slope is more pronounced along the side and back of the house, terminating in a stream that support storm water run-off.

I have an existing 2 car parking pad located just to the rear of the house. The pad is failing due to an inadequate retaining wall that was built decades ago. I want to replace the pad with a detached 2 car garage. To conform with the UDO as written, the garage would have to be placed at the back of my property. That placement would require a substantial foundation with a stem wall rising approximately 7 feet above grade and a substantial amount of fill and compaction to raise the slab and driveway to a useable height.

The approval of a variance will allow the garage to be built 25 feet closer to the house, dramatically reducing the foundation requirement. However, moving the garage closer to the house would require the garage to be built closer to the side property line to allow access to the garage doors. I am requesting a variance of 10 feet, allowing construction up to 5 feet from the property line.

The proposed structure is consistent with the house architecture and is an amenity appropriate for the house. This will allow me adequate off-street parking. I have enclosed some sketches to illustrate the problem and my proposed plan. It will be a simple one-story 2 car garage that will add value to the property, the neighborhood, and the tax base.

Thank you in advance for your consideration on this request.

Sincerely,

Jack Mellott
Property Owner.

Indicate if the property has exceptional topographic conditions or some other extraordinary situation or condition that makes it unlike other properties in the immediate vicinity.: The property falls over 17 feet from front to back. Much more than any other house in the area.

Is there some particular condition, situation, or development on the property immediately adjacent to the subject

property that affects the subject property's ability to comply with the regulations?: no

Describe how the variance is in harmony with the general purpose and intent of the City Code, and preserves the spirit.:

The area has well maintained homes with great architectural designs. The location of the garage after the variance approval will present the garage in a better manner when viewed from the front yard and street.

Explain any potential negative external impacts that may result from the proposed variance, and how they will be mitigated. Financial hardship cannot be considered for a reason to grant a variance.: At this time we can think of no negative problems that would occur from allowing the variance.

Primary Contact Information

Project Contact - Agent/Representative

Dee Sellers
Sellers and Sons Inc.
1515 Rocktree Ct
Fayetteville, NC 28306
P:910-486-4506
Deeatsellers@aol.com

Indicate which of the following project contacts should be included on this project: Contractor, Surveyor

Project Contact - Primary Point of Contact for the Contractor

Dee Sellers
Sellers and Sons Inc.
1515 Rocktree Ct
Fayetteville, NC 28306
P:910-486-4506
Deeatsellers@aol.com

Project Owner

Jack Mellott

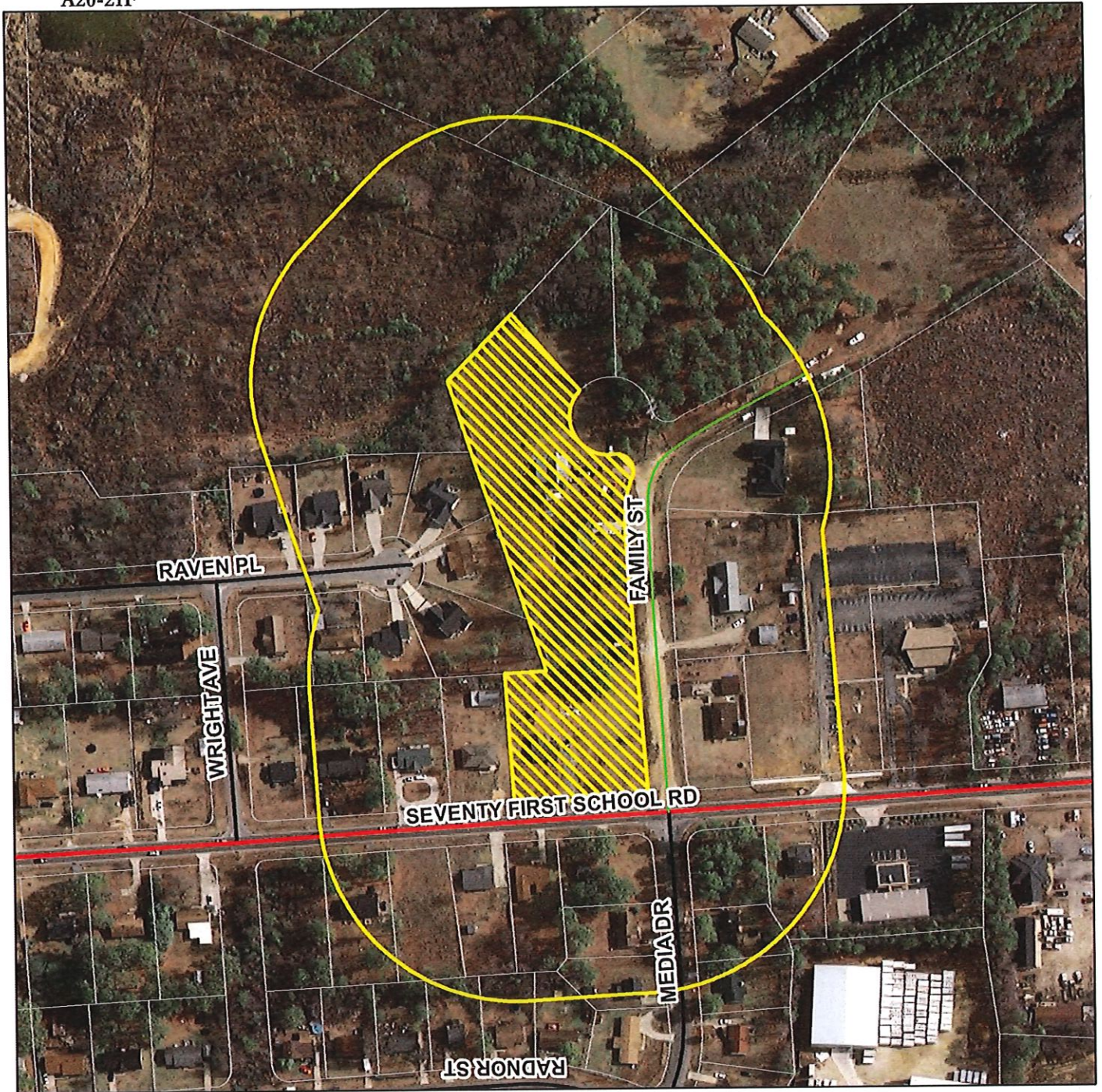
409 Devane Street
Fayetteville, NC 28301
P:910-988-7570
Jack.mellott@gmail.com

NC State License Number: 35058

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

Project Contact - Primary Point of Contact for the Surveyor

Dee Sellers
Sellers and Sons Inc.
1515 Rocktree Ct
Fayetteville, NC 28306
P:910-486-4506
Deeatsellers@aol.com



Aerial Notification Map

Zoning Commission
09/08/2020

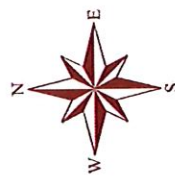
Case #: A20-21F

Request:
Variance
Accessory building
larger than permitted

Location:
6884 Family St

Pin:
9497-65-7295

Acreage:
2.96 acres



Legend



Zoning Map

Zoning Commission
09/08/2020

Case #: A20-21F

Request:

Variance
Accessory building
larger than permitted

Location:

6884 Family St

Pin:

9497-65-7295

Acreage:

2.96 acres



Legend

A20-21F

Zoning Map

HI - Heavy Industrial

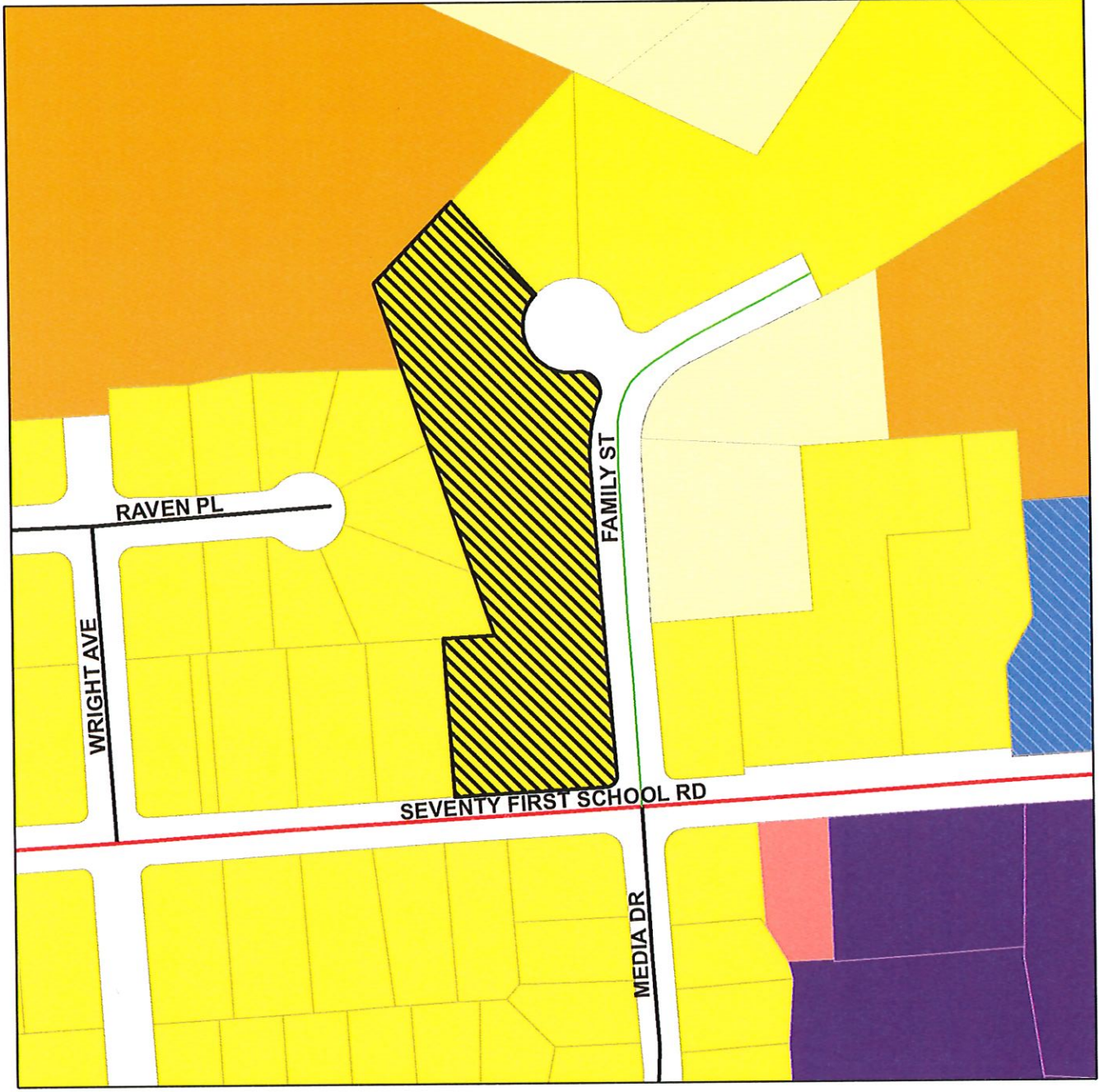
LC - Limited Commercial

MR-5 - Mixed Residential 5

OI/CZ - Conditional Office & Institutional

SF-6 - Single-Family Residential 6

SF-10 - Single-Family Residential 10



Land Use Map

Zoning Commission
09/08/2020

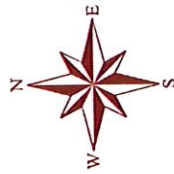
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Request:
Variance
Accessory building
larger than permitted

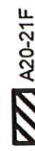
Location:
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Acreage:
2.96 acres



Legend

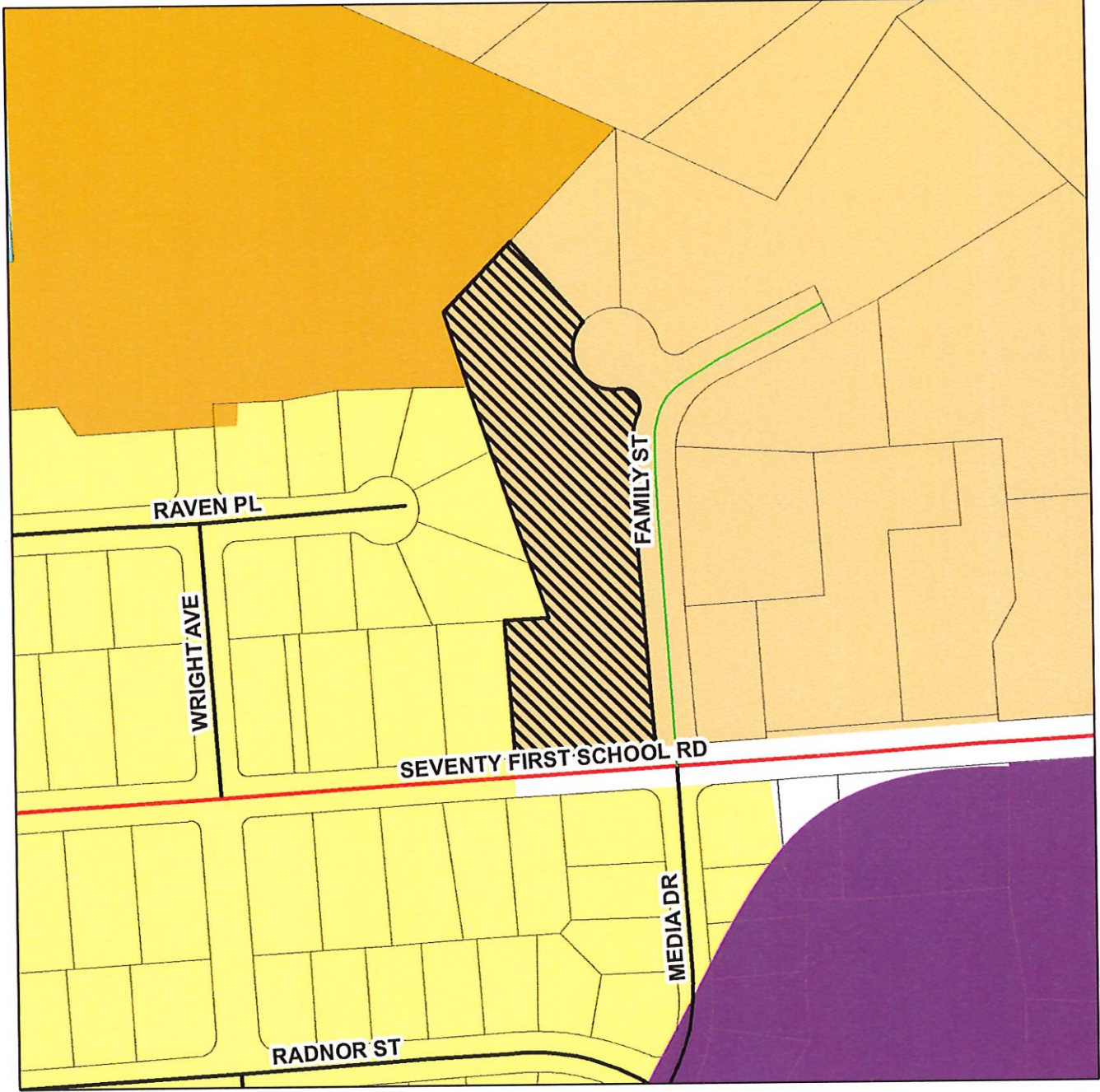


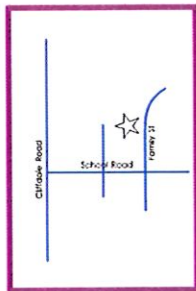
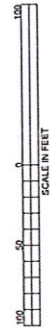
A20-21F

Future Land Use 2040

Character Areas

- LDR - LOW DENSITY
- MDR - MEDIUM DENSITY
- HDR - HIGH DENSITY RESIDENTIAL
- OI - OFFICE / INSTITUTIONAL
- EC - EMPLOYMENT CENTER



Scale 1" = 50'
March 2020

George L. Lott, FLS 191379
MARCH 25, 2020



George L. Lott
Professional
Land Surveyor
126 Rowland Circle, Fayetteville, N.C. 28301

Phone (910) 494-2178 email: glott@uncr.com

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Subject Property



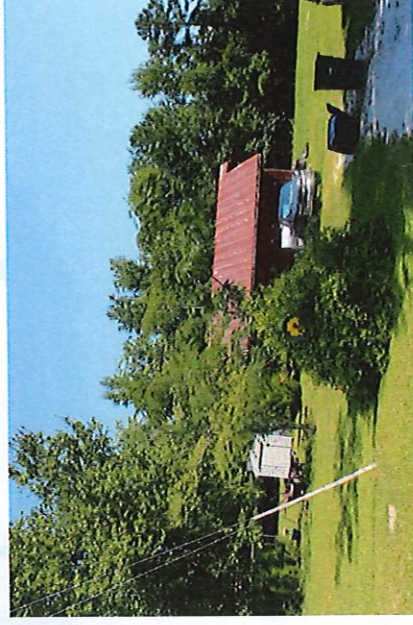
West



Center 1



East



Center 2

Adjacent Properties



South East



South West

South



P20-24F. Initial Conditional Zoning of three properties currently zoned by Cumberland County as R-7.5 Residential District to Single-Family 10/Conditional Zoning (SF-10/CZ), located off Lindbridge Drive, (Tax Map #s 9495-33-9869, 9495-33-9659, and 9495-431863) totaling 3.56 acres ± and being the property of The Sharlene R. Williams Revocable Trust, represented by Scott Brown of 4D Site Solutions, Inc. (Jennifer Baptiste)

ZONING COMMISSION STAFF REPORT

TO: Zoning Commission Members

THRU: Taurus Freeman – Planning & Zoning Manager

FROM: Jennifer C Baptiste, CFM – Senior Planner

DATE: September 8, 2020

RE:

P20-24F. Initial Conditional Zoning of three properties currently zoned by Cumberland County as R-7.5 Residential District to Single-Family 10/Conditional Zoning (SF-10/CZ), located off Lindbridge Drive, (Tax Map #s 9495-33-9869, 9495-33-9659, and 9495-43-1863) totaling 3.56 acres ± and being the property of The Sharlene R. Williams Revocable Trust, represented by Scott Brown of 4D Site Solutions, Inc.

COUNCIL DISTRICT(S):

6 – Christopher Davis

Relationship to Strategic Plan 2030:

- Goal III: Objective A – Manage the City future growth and support strategic land use policy by supporting quality development.
- Goal IV: Objective B – Provide for a clean and beautiful community with increased green spaces.

Executive Summary:

The applicant, Scott Brown on behalf The Sharlene R. Williams Revocable Trust, has submitted a request that the City of Fayetteville assign an initial zoning of Single-Family Residential 10/Conditional Zoning for the aforementioned properties as part of an annexation request. These properties are currently in the jurisdiction of Cumberland County with an assigned zoning of R-7.5 Residential District.

This initial zoning is the first step of a two-step annexation process. This step precedes the Annexation Petition.

Background:

This property is located southeast of the city limits, off of Dundle Road, and north of Lindbridge Drive. The subject properties total 0.51 acres ± and will primarily serve as a

secondary access point for the proposed Autry Lakes at Gates Four Subdivision. Future development of this area is possible.

Applicant: Scott Brown, 4D Site Solutions, Inc.
Owner: The Sharlene R. Williams Revocable Trust
Requested Action: R7.5 Residential District (County zoning) to SF-10/CZ
Property Addresses: off Lindbridge Drive
Council District: 6
Status of Property: Undeveloped
Size: 0.51 acres +/-
Adjoining Land Use & Zoning:
North: AR – Undeveloped
South: R 7.5 Residential District (County) – Gates Four Subdivision
West: R 7.5 Residential District (County) – Turnberry of Gates Four Subdivision
East: R 7.5 Residential District (County) – Gates Four Subdivision
Letters Mailed: 59

Land Use Plans

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Plan, these parcels and the immediate area surrounding these parcels should be developed for residential uses.

Issues/Analysis:

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of a number of base zoning districts. When voluntary annexation requests occur, land is to be reclassified to one of a number of comparable zoning districts, in accordance with Section 30-2.C.

The parcels are contiguous to the existing city limits and would move the city limit line southeastward to Lindbridge Drive. The proposal is to develop these parcels as part of a larger subdivision development – Autry Lake at Gates Four.

These parcels will be used to provide a means of ingress/egress for the subdivision. According to the proposed developmental site plan submitted, there is a possibility of future development of this area.

Special Considerations:

1. Annexation Information: This property is planned to be annexed into the City Limits.
2. Initial Zoning Information: This property must be initially zoned after being annexed into the City Limits. The initial zoning would be SF-10/CZ.
3. Site Plan Review Information: The proposed development has been preliminarily reviewed by the City's Technical Review Committee.

Surrounding Area:

The majority of the surrounding area is within unincorporated Cumberland County. These properties are located between Turnberry of Gates Four to the southwest, and Gates Four to the northeast. According to the Cumberland County GIS system, zoning in the area is mainly R-7.5 Residential District with some R-5A District to the east across Surrey Road. To the north of the properties is another portion of the proposed Autry Lake at Gates Four subdivision that currently is in the municipal limits of Fayetteville, which is zoned Agricultural (AR) and is undeveloped.

Conditional Initial Zoning:

The request is for a conditional zoning from the County's R 7.5 Residential District to the City's Single-Family 10/Conditional Zoning (SF-10/CZ) zoning district.

The purpose of the SF-10 zoning district is to "establish and intended to accommodate principally single-family detached residential development at moderate densities that is designed to respond to environmental and site conditions. It also accommodates two- to four- family dwellings, single-family attached, and zero lot line development subject to the requirements of this Ordinance. All users in the district are subject to the design standards in Article 30-5: Development Standards. District regulations discourage any use that substantially interferes with the development of single-family dwellings and that is detrimental to the quiet residential nature of the district. Also allowed are complimentary uses usually found in residential zoning district, such as parks, open space, minor utilities, accessory dwellings, schools, and places of worship."

The purpose of the CZ zoning district is "intended to provide a landowner and the City an alternative to rezoning the land to a standard base zoning district, where the base zoning allows certain uses and development that may be appropriate but also allow uses and development that may not conform to City plans or would have adverse impacts on public facilities or surrounding lands. Reclassification of land to a conditional zoning district allows a landowner to propose, and the City Council to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel base zoning district. This enables the City to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from development otherwise allowed by the base zoning district."

Land Use Plan Analysis:

According to Future Land Use Plan Map, this area is recommended to develop as Low Density Residential (LDR). The Low Density Residential category is classified to accommodate mainly single-family residential with some accessory dwellings; occasionally with duplexes (if isolated) or townhomes with lots typically 1-4 dwellings per acre.

Specifics of this Conditional Initial Zoning:

This conditional initial zoning is in harmony with the City's practice of bringing new properties into the city with the closest equivalent-zoning district to the County's when possible.

The original subdivisions in this area, Turnberry of Gates Four and Gates Four, were originally platted in 1998 and 2002, respectively. These subdivisions were developed according to the guidelines established by Cumberland County and remain under the County's jurisdiction.

The applicant is proposing a 77 lot subdivision that will include 41 single-family lots and 36 townhome lots. All lots in the subdivision will front on internal 40-foot wide private roads that will be owned and maintained by the Homeowners Association.

The applicant is requesting as part of this initial zoning that certain developmental conditions be put in place. The first development condition is to have the front yard setback of 55-feet from the centerline of the private streets reduced to 15-feet and the rear setback of 35-feet reduced to 25-feet. The second condition is that any lot that is deemed as a corner lot be allowed to be developed as a lot with one front yard setback instead of a dual front yard setback lot. Specifically, the applicant is requesting that any corner lot be allowed to develop with a 15-foot corner side setback in order for the lot to be in line with the 15-foot front yard setback requested previously.

Budget Impact:

There is not an immediate budgetary impact but there will be an economic impact associated with this rezoning that will occur over the next decade.

Options:

1. Approval of the map amendment/rezoning to SF-10/CZ as presented by the Planning staff (recommended).
2. Approval of the map amendment/rezoning to a more restrictive zoning district.
3. Deny the request.

Recommended Action:

The City Planning Staff recommends APPROVAL of the initial conditional zoning to Single-Family10/Conditional Zoning (SF-10/CZ) based on:

- This proposed zoning map amendment implements the policies adopted in the Future Land Use Plan and the Unified Development Ordinance. This district type is intended to meet the diverse housing needs of City residents by accommodating mainly single-family residential with some accessory dwellings; occasionally with duplexes (if isolated) or townhomes;
- The uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified due to the future land use plan for this area and the previous approval of a conditional rezoning by the County;
- The proposed change is in accordance with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area. The owners and PWC will be providing these features to and in the project; and

- There are no other factors that will substantially adversely affect the public health, safety, morals, or general welfare when built in accordance with the conditions.

Attachments:

1. Plan Review Application
2. Aerial Notification map
3. Zoning Map
4. Land Use Plan Map
5. Site Photos
6. Surrounding Area Photos
7. Concept Site Plan
8. UDO Table of Uses

Project Overview

#387787

Project Title: Autry Lake at Gates Four
Application Type: 5.2) Conditional Rezoning
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN:

- 0 ? N/A (9495-33-9869-)
- 0 LINDBRIDGE DR (9495-33-9659-)
- 0 ? N/A (9495-43-1863-)

GIS Verified Data

Property Owner: Parcel

- 0 ? N/A: PELICAN PROPERTY HOLDINGS LLC
- 0 LINDBRIDGE DR: PELICAN PROPERTY HOLDINGS LLC
- 0 ? N/A: PELICAN PROPERTY HOLDINGS LLC

Acreage: Parcel

- 0 ? N/A: 2.43
- 0 LINDBRIDGE DR: 1.08
- 0 ? N/A: 0.05

Zoning District:

Subdivision Name: Parcel

- 0 ? N/A: NOT APPLICABLE
- 0 LINDBRIDGE DR: NOT APPLICABLE
- 0 ? N/A: NOT APPLICABLE

Fire District:

Airport Overlay District:

Hospital Overlay District:

Coliseum Tourism District:

Cape Fear District:

Downtown Historic District:

Haymount Historic District:

Floodway:

100 Year Flood:

500 Year Flood:

Watershed:

General Project Information

Proposed Conditional Zoning District: SF-10/CZ - Conditional Single-Family Residential 10 **Lot or Site Acreage to be rezoned:** 3.56

Was a neighborhood meeting conducted?: No
Number of Residential Units: 0

Date of Neighborhood Meeting:
Nonresidential Square Footage: 0

Landowner Information

Landowner Name: Pelican Property Holdings

Deed Book and Page Number: DB 8973 PG 322

Written Description of Request - Answer all the questions under this section (upload additional sheets as needed).

A) Describe the proposed use of the rezoned land, including the proposed types of site improvements, buildings, uses, proposed activities, hours of operation, and operating characteristics.: The land is vacant. There are no existing structures on site. There is a sewer line and pond located on the property.

C) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.: The surrounding property is developed as single family lots and zoned SF-10.

B) Describe the proposed conditions that should be applied.: We are requesting a front setback reduction to 15' and a rear setback reduction to 25'.

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.: The property is surrounded by single family lots. The requested zoning is SF-10 conditional for residential development. The property will be developed similar to the surrounding properties. We are requesting a front setback reduction to 15' and a rear setback reduction to 25'.

B) Are there changed conditions that require an amendment? : The parcels will require annexation into the city. We are requesting a front setback reduction to 15' and a rear setback reduction to 25'.

C) State the extent to which the proposed amendment addresses a demonstrated community need.: The surrounding property is developed into single family lots. There is a need for additional single family lots within the area. The development will be a natural fit with the surrounding development.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.: The adjoining zoning is SF-10 and currently developed as single family lots. The requested zoning matches the existing surround zoning and will be in harmony with the neighborhood.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.: The proposed zoning will allow the property to be development as single family which is in harmony with the surrounding property. It is only logical that this remaining tract be developed as single family similar to the surrounding properties.

F) State the extent to which the proposed amendment might encourage premature development.: The surrounding property is already development. This is the only remaining undeveloped tract.

G) State the extent to which the proposed amendment results in strip-style commercial development.: We are requesting residential zoning. This is N/A.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.: The proposed zoning will match the surrounding zoning.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.: The proposed zoning should not adversely impact surrounding property values as the surrounding property is already developed as single family lots.

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.: The proposed zoning should not adversely impact the environment. The develop will comply with all local and state guidelines and ordinances.

Primary Contact Information

Project Contact - Agent/Representative

Scott Brown
4D Site Solutions, Inc
409 Chicago Drive, Suite 112
Fayetteville, NC 28306

Project Owner

Palmer Williams
C&S Commercial Properties
2709 Thorngrove Court, Suite 1
Fayetteville, NC 28303

P:(910) 4266777
sbrown@4dsitesolutions.com

Indicate which of the following project contacts should be included on this project: Engineer

P:910-864-1125
pwilliams@c-sprop.com

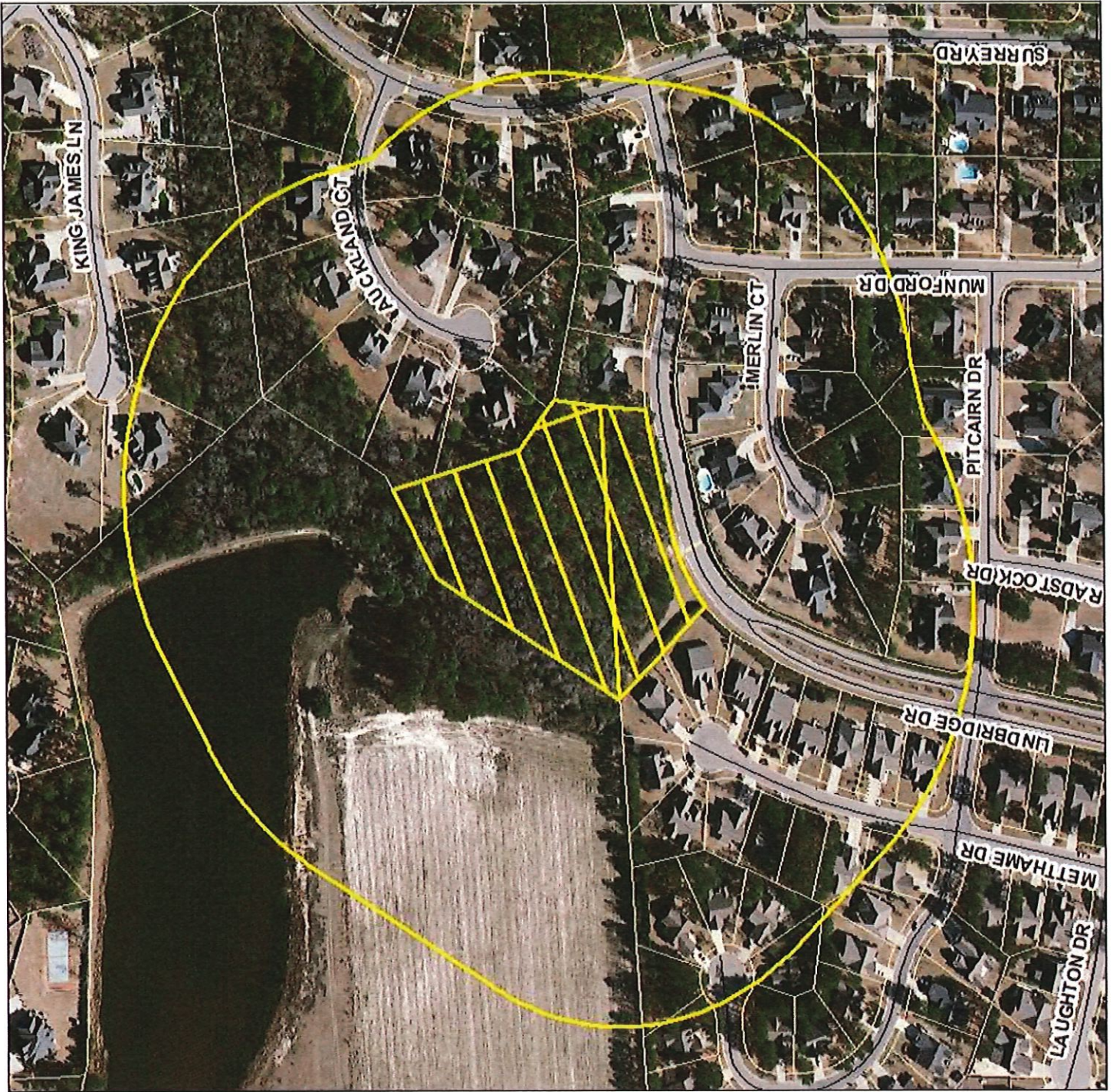
NC State License Number:

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

Project Contact - Primary Point of Contact for Engineer

Scott Brown
4D Site Solutions, Inc
409 Chicago Drive, Suite 112
Fayetteville, NC 28306
P:(910) 4266777
sbrown@4dsitesolutions.com

P20-24F



Aerial Notification Map

Zoning Commission

09/08/2020

Case #: P20-24F

Request:

Initial Zoning Conditional

Location:

Lindridge Drive

Pins:

9495-33-9869

9495-33-9659

9495-43-1863

Acreage:

3.56 acres



Legend



Autry Lake Buffer

P20-24F

Parcels



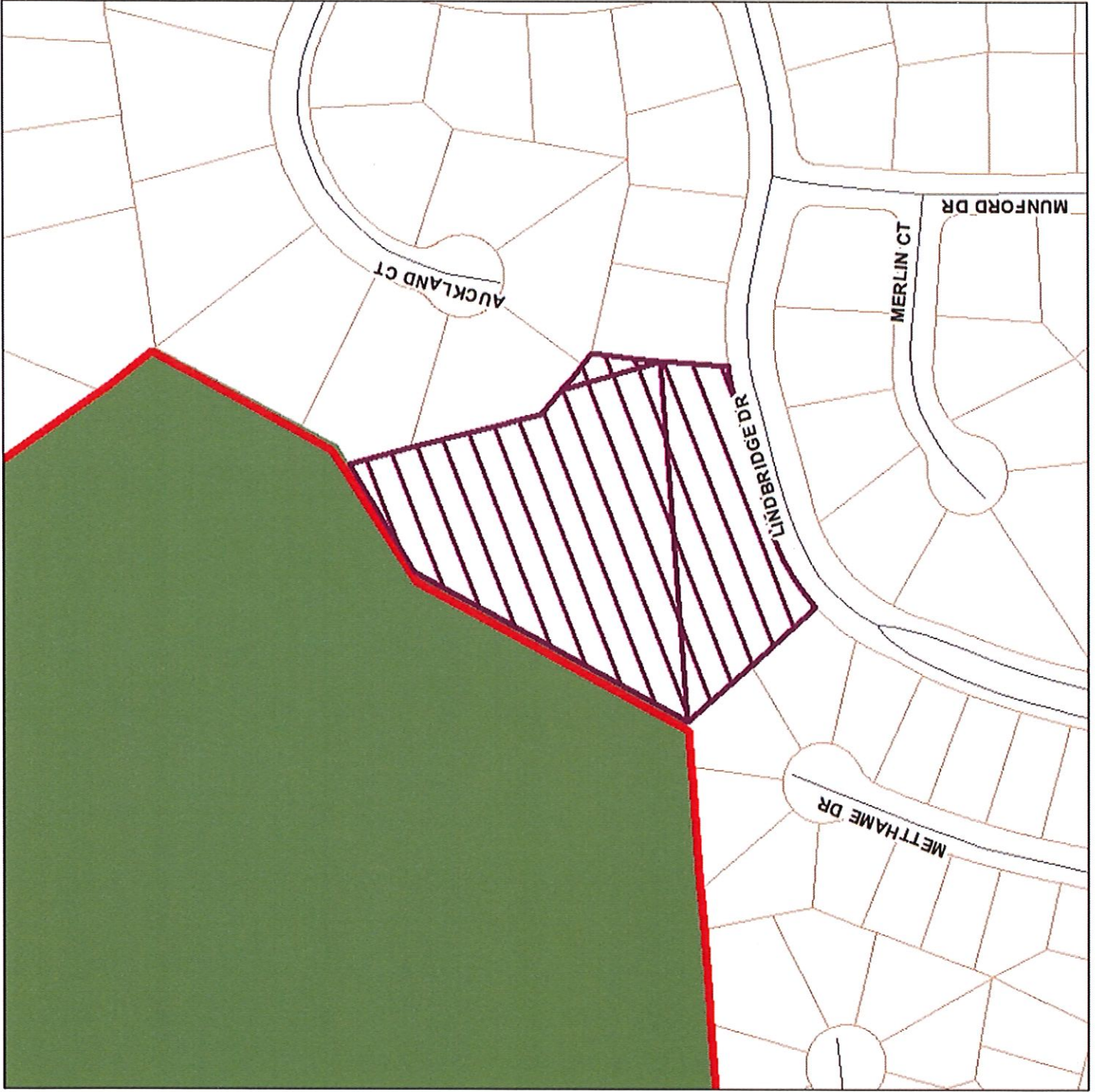
Letters are being sent to all property owners within the 500' buffer. Subject property is shown in the hatched pattern.

Recommendation:

Disposition Date:

Final Action:

P20-24F



Zoning Map
Zoning Commission
09/08/2020

Case #: P20-24F

Request:
Initial Zoning Conditional
R 7.5 to SF-10/CZ

Location:
off Lindbridge Drive

Pin:
9495-33-9869
9495-33-9659
9495-43-1863

Acreage:
3.56 acres

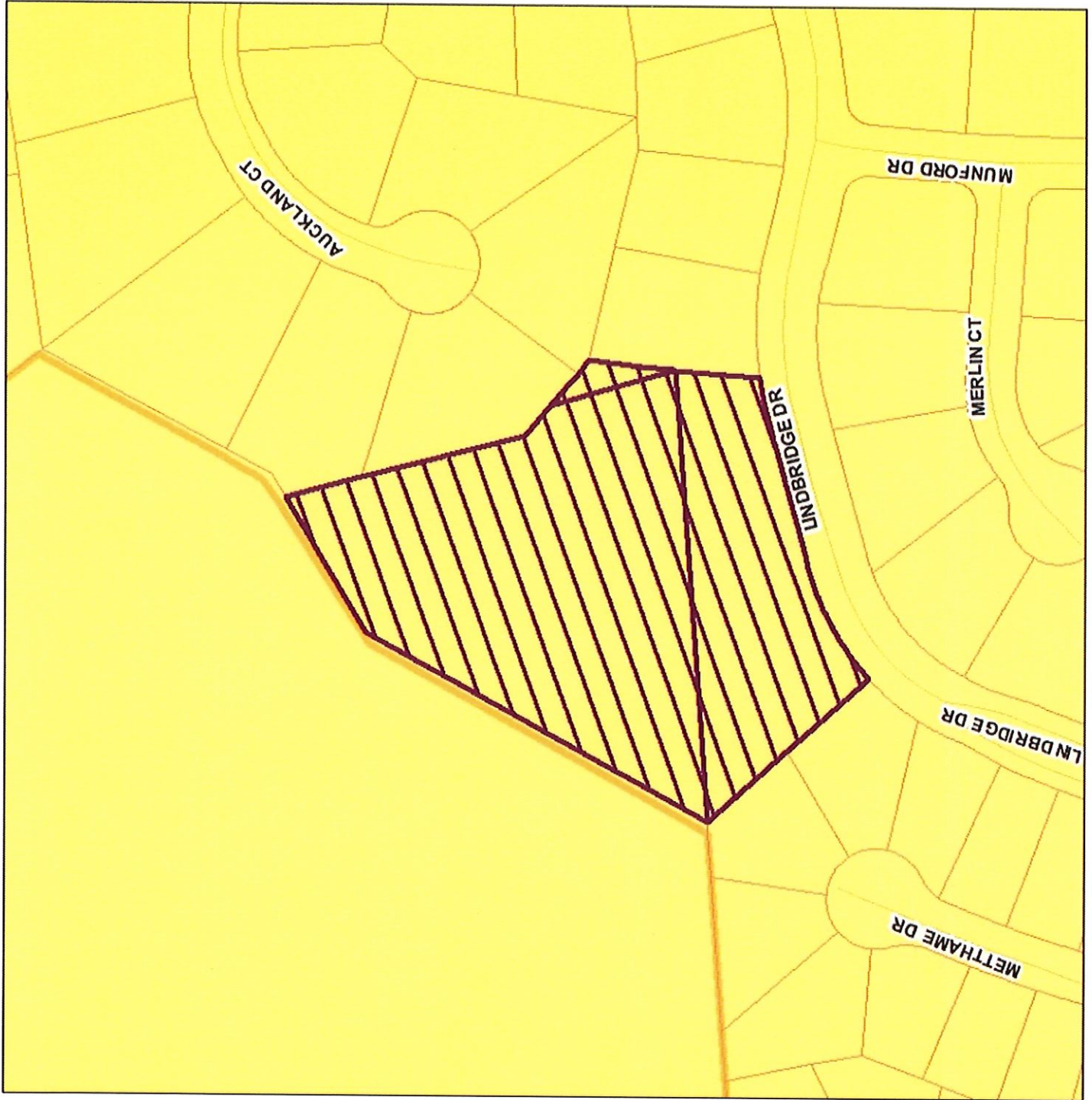


Legend

- P20-24F
- AR - Agricultural
- Resi...



P20-24F



Land Use Map

Zoning Commission
09/08/2020

Case #: P20-24F

Request:

Initial Zoning Conditional
R 7.5 to SF-10/CZ

Location:

off Lindbridge Drive

Pin:

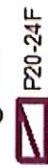
9495-33-9869
9495-33-9659
9495-43-1863

Acreage:

3.56 acres

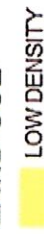


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P20-24F

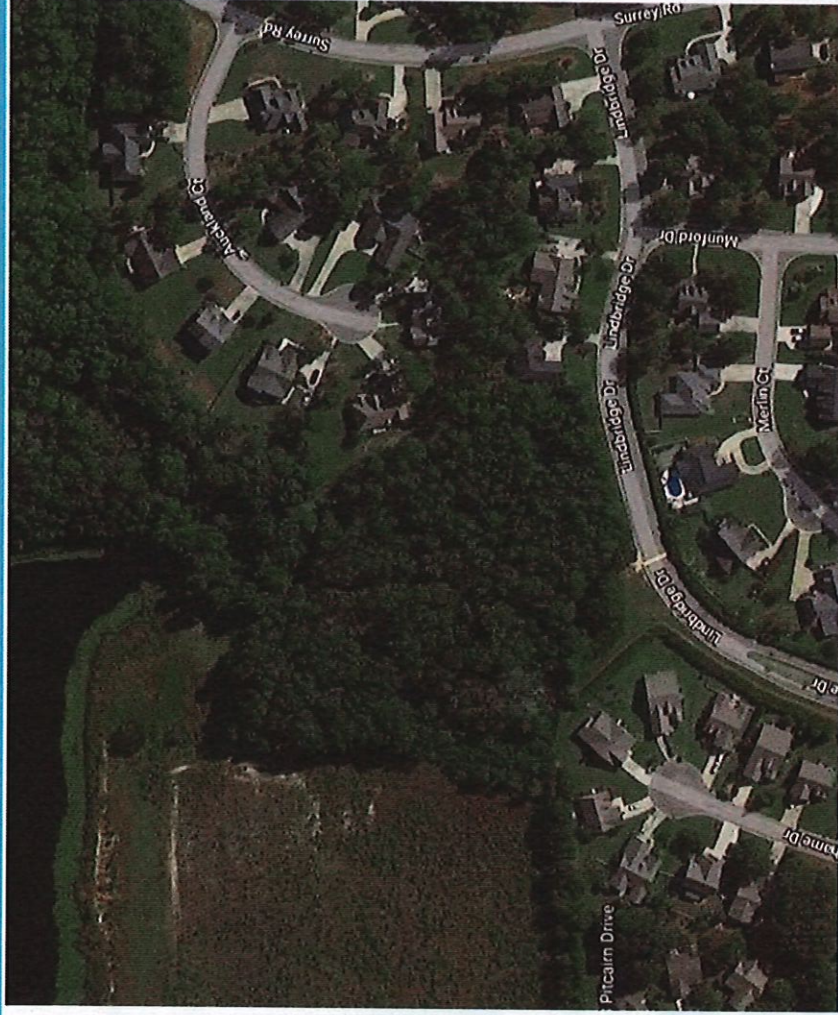
**FUTURE
LAND USE**



LOW DENSITY

City of Fayetteville
West Lawrence
PLANNING

Subject Properties



Adjacent Properties

